

Notice of Allowability

Application No.

10/785,604

Applicant(s)

ROSE, BRIAN

Examiner

Antonio A. Caschera

Art Unit

2628

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to amendment filed 05/11/07.
2. ☒ The allowed claim(s) is/are 22-27, 29-34, 41-46 and 59-68.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☒ Interview Summary (PTO-413), Paper No./Mail Date 07/09/07.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

DETAILED ACTION

Priority

1. This application is a continuation of application no. 09/805/920, now U.S. Patent 6,697,079.

Examiner's Amendment

2. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Martin Miller on 07/09/07. The substance of the interview can be found in the attached Examiner-Initiated Interview Summary form.

The application has been amended as follows:

LISTING OF CLAIMS:

- 1 – 21. (Canceled)
- 22 – 27. (Previously Presented)
28. (Canceled)
- 29 – 31. (Previously Presented)

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32. *(Currently Amended) The method of claim ~~22~~31 wherein at least one of said first, second and third contiguous groupings is positioned in a row or column at an edge of said grid.*

33 – 34. *(Previously Presented)*

35 – 40. *(Canceled)*

41 – 46. *(Previously Presented)*

47 – 58. *(Canceled)*

59 – 68. *(Previously Presented)*

69. *(Canceled)*

Response to Arguments

3. The cancellation of claims 35-40, 47-58 and 69 is noted.

4. Applicant's arguments, see pages 9-10 of Applicant's Remarks, filed 05/11/07, with respect to 35 USC 101 rejection of claims 22-27, 29-40, 47-52 and 69 have been fully considered and are persuasive. The 35 USC 101 rejection of claims 22-27, 29-40, 47-52 and 69 has been withdrawn since amendments to claim 22 remedy the previously mentioned 35 USC 101 issues to claim 22 and its dependent claims. Claims 35-40, 47-58 and 69 have been noted as cancelled. Further note, a clarification of interim guidelines for examination of patent applications for subject matter eligibility has also recently been realized by the Office.

5. Applicant's arguments, see page 10 of Applicant's Remarks, filed 05/11/07, with respect to the 35 USC 112, 2nd paragraph rejection of claims 31 and 32 have been fully considered and are persuasive. The 35 USC 112, 2nd paragraph rejection of claims 31 and 32 has been withdrawn.

6. The terminal disclaimer filed on 05/11/07 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of U.S. Patent 6,697,097 has been reviewed and is accepted. The terminal disclaimer has been recorded. Note, therefore, applicant's arguments, see page 10 of Applicant's Remarks, filed 05/11/07, with respect to the nonstatutory obviousness-type double patenting rejection of claims 22-27 and 26-69 have been fully considered and are persuasive. The nonstatutory obviousness-type double patenting rejection of the above claims has been withdrawn.

Allowable Subject Matter

7. Claims 22-27, 29-34, 41-46 and 59-68 are allowed.

The following is an examiner's statement of reasons for allowance:

In reference to claims 22 and 41, the prior art of record (Adobe Systems Inc. (Adobe Photoshop 6.0 User Guide for Windows and Macintosh. 2000. Adobe Systems Inc.), Microsoft Word 2000 (Microsoft Corporation. © 1983-1999.) and Beretta (U.S. Patent 5,254,978)) does not explicitly disclose grouping web-safe color blends arranged to form a square wherein the colors are situated on one side of a diagonal of the square horizontally in order of decreasing saturation towards the diagonal and vertically in order of decreasing value towards the diagonal, and the colors in the other side of the diagonal are arranged horizontally decreasing in value towards the diagonal and vertically decreasing in saturation towards the diagonal, in combination with the further limitations of claims 22 and 41 respectively.

In reference to claims 23-27, 29-34 and 42-46, claims 23-27, 29-34 and 42-46 are allowed because they claim dependency upon allowable claims 22 and 41.

In reference to claim 59, the prior art of record (Adobe Systems Inc. (Adobe Photoshop 6.0 User Guide for Windows and Macintosh, 2000. Adobe Systems Inc.), Microsoft Word 2000 (Microsoft Corporation. © 1983-1999.) and Beretta (U.S. Patent 5,254,978)) does not explicitly disclose arranging achromatic colors in one contiguous grouping within a palette, placing blends of non web-safe chromatic colors in a second contiguous grouping within the palette, placing web-safe chromatic colors, including blends created from web-safe chromatic colors in a third contiguous grouping within the palette and storing the palette for display and selection of the individual colors in combination with the further limitations of claim 59.

In reference to claims 60-68, claims 60-68 are allowed because they claim dependency upon allowable claim 59.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Antonio Caschera whose telephone number is (571) 272-7781. The examiner can normally be reached Monday-Thursday and alternate Fridays between 7:00 AM and 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kee Tung, can be reached at (571) 272-7794.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington, D.C. 20231

or faxed to:


571-273-8300 (Central Fax)

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 2600 Customer Service Office whose telephone number is (571) 272-2600.

aac



07/09/07 **Antonio Caschera**
Patent Examiner



KEE M. TUNG
SUPERVISORY PATENT EXAMINER